

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

UNITED STATES POSTAL SERVICE

and

Case 10-CA-188508

**AMERICAN POSTAL WORKERS UNION,
AREA LOCAL 118**

DECISION AND ORDER

Statement of the Case

On May 16, 2017, the United States Postal Service (the Respondent), the American Postal Workers Union, Area Local 118 (the Union), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to Board approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.¹

¹ We note that the remedy to which the parties have agreed differs in some respects from previous broad orders that the Board has issued against the Respondent in cases alleging that the Respondent has violated Sec. 8(a)(5) of the Act by failing and refusing to provide relevant information. See, e.g., *United States Postal Service*, 345 NLRB 426 (2005), enfd. 486 F.3d 683 (10th Cir. 2007); *United States Postal Service*, 28-CA-017383 et al., unpublished order issued November 4, 2002, enfd. Case 02-9587 (10th Cir. 2003). These broad orders, as enforced by the United States Courts of Appeals, remain in effect, and the Board's approval of this stipulation does not modify these orders in any respect. We also note that, although there is only one Union involved in the instant case, the parties' stipulation refers to "Unions" in the plural and the parties have agreed to that term. We therefore include it in our Order.

Member Emanuel would not approve the part of the Order requiring the Respondent to cease and desist from refusing to bargain with "any other labor organizations" because that asserted violation was not alleged as part of this case.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

Findings of Fact

1. The Respondent's business

The Respondent is and has been, at all times material herein, an independent establishment of the Executive Branch of the Government of the United States and operates various facilities throughout the United States and the State of Georgia in the performance of its basic function to provide postal services to the Nation, including its facility at 3916 Milgen Road, Columbus, Georgia (the Respondent's facility), the facility involved in this settlement and the underlying proceedings. The Respondent is now and has been, at all material times, an entity subject to the Board's jurisdiction by virtue of Section 1209 of the Postal Reorganization Act (39 U.S.C. § 101 et seq.).

2. The labor organizations involved

At all material times, American Postal Workers Union (APWU) has been a labor organization within the meaning of Section 2(5) of the Act.

At all material times, APWU Local 118 has been an agent of APWU, acting on behalf of APWU, within the meaning of Section 2(13) of the Act.

At all material times, by virtue of Section 9(a) of the Act, APWU has been, and is now, the exclusive bargaining representative for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment of employees in an appropriate unit as set forth in Article 1 of the current National Agreement between the Respondent and APWU, including employees employed by the Respondent at the Respondent's facility.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

The Respondent, United States Postal Service, Columbus, Georgia, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain collectively and in good faith with APWU Local 118 and/or any other labor organizations (collectively referred to as "the Unions") representing bargaining unit employees at the Respondent's facility, by refusing or unduly delaying in furnishing information that is relevant and necessary to the

performance of the Unions' duties as the exclusive collective-bargaining representatives of the employees at the Respondent's facility.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Upon request, provide the Unions with necessary and relevant information in a timely and appropriate manner.

(b) Waive, for 30 days following issuance of the Board's Order, any contractual deadlines for filing and pursuing grievances related to the requested information, where APWU Local 118 missed contractual deadlines due to the Respondent's delay or refusal in providing the information.

(c) For the Respondent's facility, the Respondent will maintain a log in which it will immediately record each information request tendered by the Unions upon receipt of such requests, orally or in writing. These logs shall include the following information: a brief description of the information requested; the name of the individual who is making the request; the name of the supervisor, manager, or designated management official (DMO) who received the request; the date the request was made; and the date that the Respondent provided the Unions with the requested information, or upon which the Respondent's manager, supervisor, or DMO responded to the Union with an explanation for any anticipated delay. If the Respondent, having reviewed the documents requested, believes that the Respondent will need additional time, the manager, supervisor, or DMO will inform the Unions in writing, requesting additional time and explaining the need for the additional time. Such responses shall be recorded in the information request logs.

(d) Each manager, supervisor, or DMO who is designated to receive union requests for information for the Respondent's facility will receive annual training that encompasses how to maintain the log and how to tender the relevant information requested by the Unions, and each such management official will sign an acknowledgment form attesting that he or she has completed said training. A copy of this acknowledgment form shall be maintained in the official's training and history files. Union stewards will be granted access to the logs, upon request. Supervisors, managers, or DMOs who unreasonably fail to supply relevant information for the Unions will have this fact mentioned in the "corrective action" column of the semi-annual audit report provided to the USPS district manager, the USPS district manager of human resources, USPS labor relations, and the USPS Law Department NLRB Unit. Repeated violations could lead to discipline of said supervisor or manager.

(e) The Respondent's legal department or its labor relations department shall conduct semi-annual audits of the logs for the Respondent's facility, to ensure that the information requests from the Unions are being handled in a timely and appropriate manner and to ensure the logs are being properly maintained. Following each audit, the

legal department or labor relations department shall tender, in writing, a written report setting forth for each request that did not receive a complete response within seven days: the identity of the requesting party; a summary of the request; the location for which the request was made; the name of the supervisor or manager responsible for responding to the request; the number of days from request to initial response; the number of days from request to complete and/or final response; and any action taken to address and/or correct unreasonable failures and delays by supervisors and managers. This audit report will be forwarded to the USPS district manager, the USPS district manager of human resources, USPS labor relations, and the USPS Law Department NLRB Unit. To the extent that such audits indicate that requests are not being responded to in a timely and appropriate manner or that the logs recording information requests are not being properly maintained, remedial training shall be provided to all persons in a supervisory, managerial, or DMO capacity who were or are involved in the process of providing information to the Unions for the Respondent's facility. The Respondent will provide documentation of any such training to the NLRB Region 10 Compliance Officer upon request.

(f) Union stewards at the Respondent's facility must be notified when the manager, supervisor, or DMO who is designated to receive requests for information has changed.

(g) Within 14 days of service by the Region:

(i) Post at the Respondent's facility, copies of the Notice to Employees attached as Appendix 1.² Copies of the notice, on forms provided by the Regional Director for Region 10, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. The Respondent will electronically mail the Board's official notice to the manager at the Respondent's facility.

(ii) Upon receipt of such notice, the manager at the Respondent's facility will record the date said notice was received and the date on which the notices were posted and the Respondent will submit this information to the Region's Compliance Officer, along with the signed certification. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material.

(iii) Electronically post the Notice to Employees for employees at the Respondent's facility, if the Respondent customarily uses electronic means such as an electronic bulletin board, e-mail, website, or intranet to communicate with those employees.

² If this Order is enforced by a judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(h) Within ten (10) days after entry of the Board's Order, provide all supervisors and managers, including acting supervisors and managers, at the Respondent's facility with written instructions to comply with the provisions of the Order. The instructions shall underscore that:

- 1) Unprivileged or unwarranted refusals and unreasonable delays in responding to requests for information required under the Act to be provided to labor organizations shall not be tolerated by the Respondent.
- 2) Any unwarranted failure to provide, or unreasonable delay in providing, such information will subject the responsible supervisor(s), DMO(s), and/or manager(s) to discipline by the Respondent as may be appropriate in light of the relevant facts and circumstances, consistent with applicable state and federal laws and regulations.
- 3) Each person receiving the Board Order and instructions described above shall acknowledge in writing that he or she has been furnished with a copy thereof, understands them and will conduct himself or herself consistently therewith, and will not in any way commit, engage in, induce, encourage, permit, or condone any violation of this Order; and the Respondent shall retain and supply copies of those acknowledgments and the written instructions to NLRB Region 10 pursuant to subparagraph (i) below.

(i) In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed any of the facilities involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at the closed facility at any time since September 13, 2016.

(j) Within 14 days from the date of this Order, at the Respondent's facility, convene meetings during working time, scheduled to ensure the widest possible attendance, at which the attached Notice to Employees is to be read to all employees, supervisors, and managers. The Respondent will advise the Regional Director of the dates and times of such notice readings, and the Union and the Region shall be afforded a reasonable opportunity to provide for the attendance of a union official and/or a Board agent at any assembly of employees called for the purpose of reading such notice. The Respondent shall maintain sign-in sheets for supervisors and managers at the reading(s) and submit copies of the sign-in sheets to the Region within seven days of the final notice reading.

(k) Within 21 days after receipt by the Respondent, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply. The certification shall include: (i) a copy of the documents signed by the Respondent, attesting to the dates that the notices were received at the Respondent's facility, and the dates that the notices were posted; (ii) a certification by the installation head attesting to the dates that the notice was read at the Respondent's facility; (iii) copies of the acknowledgments, signed by each of the Respondent's supervisors, managers, or DMO at the Respondent's facility that they may be subject to disciplinary action as may be

appropriate in light of the relevant facts and circumstances, consistent with applicable state and federal laws and regulations; (iv) copies of notice-reading meeting sign-in sheet(s) for supervisors and managers.

(l) The Respondent agrees that while bargaining unit employees may be called upon to assist in gathering documentation and in other aspects of the information process, they shall not be considered responsible for the Respondent's legal obligations and they shall not be subject to discipline for the Respondent's failure to comply with the obligations described herein.

Dated, Washington, D.C., January 3, 2018.

Mark Gaston Pearce,	Member
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Lauren McFerran,	Member
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William J. Emanuel,	Member
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(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX 1

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF APPEALS

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain collectively and in good faith by refusing or unduly delaying furnishing information requested by the APWU Local 118, and/or any other labor organization representing bargaining unit employees (collectively the Unions), at our facility located at 3916 Milgen Road, Columbus, Georgia, that is necessary for and relevant to the performance of their duties as the exclusive collective-bargaining representatives of bargaining unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, upon request, provide the Unions with necessary and relevant information in a timely and appropriate manner.

WE WILL waive for 30 days following issuance of the Board's Order any contractual deadlines for filing and pursuing grievances related to the requested information, where APWU Local 118 missed contractual deadlines due to our delay or refusal in providing requested information.

WE WILL, for our facility, maintain a log in which we will immediately record each information request, made orally or in writing, by the Unions at that facility. These logs shall include the following information: a brief description of the information requested; the name of the individual who is making the request; the name of the management official who received the request; the date the request was made; and the date that our official provided the Unions with the requested information. If our official, having reviewed the documents requested, believes that we will need additional time, the official will inform the requesting Union in writing, seeking additional time and explaining the need for the additional time.

WE WILL provide annual training to each manager, supervisor, or DMO who is designated to receive requests for information for our facility which encompasses how

to maintain the log, and how to tender the relevant information requested by the Unions; each such official will sign an acknowledgment form attesting to the fact that he or she has completed said training. A copy of this acknowledgment form shall be maintained in the official's training and history files. Union stewards will be granted access to the logs, upon request. Officials who fail to reasonably supply relevant information to the Unions will have this fact mentioned in the "corrective action" column of the semi-annual audit report provided to the district manager and district manager of human resources. Repeated violations could lead to discipline of said official.

WE WILL notify Union stewards when the manager, supervisor, or DMO who is designated to receive union requests for information at our facility has changed.

WE WILL through our legal department or labor relations department, conduct semi-annual audits of the logs for our facility to ensure that the information requested by the Unions is being handled in a timely and appropriate manner, and to ensure the logs are being properly maintained. Following the audit, our legal department or labor relations department shall tender, in writing, a written report that will be forwarded to the district manager and the district manager of human resources.

WE WILL provide a copy of this Order and notice to all supervisors, managers, or DMOs who are responsible for receiving Union requests for information for our facility, and we will require each such official to sign an acknowledgment affirming that they understand that they may be subject to disciplinary action as may be appropriate in light of the relevant facts and circumstances, consistent with applicable state and federal laws and regulations, if they fail to comply with the provisions of the Order.

UNITED STATES POSTAL SERVICE

The Board's decision can be found at www.nlr.gov/case/10-CA-188508 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

